MONTANA LEGISLATIVE HISTORY

Chapter 83 1991

Bill H _____ S 100 Original bill & history ✓ C

H. Committee on Local Govt.

Hearing Date(s) _____ ___C

3/05 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Local Govt.

Hearing Date(s) _____ ___C

1/24 ✓C

_____ ___C

1/24 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILL NO. 100

INTRODUCED BY HOCKETT

IN THE SENATE

JANUARY 16, 1991	INTRODUCED AND REFERRED TO COMMITTE ON LOCAL GOVERNMENT.
	FIRST READING.
JANUARY 25, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 26, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 28, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 28, 1991	INTRODUCED AND REFERRED TO COMMITTE ON LOCAL GOVERNMENT.
JANUARY 29, 1991	FIRST READING.
MARCH 6, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
MARCH 7, 1991	CONSENT CALENDAR, QUESTIONS AND ANS
MARCH 8, 1991	THIRD READING, CONCURRED IN. AYES, 97; NOES, 0.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 9, 1991	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

NTRODUCED BY SENATE BILL NO. 100
Bob Hockett

. BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE EQUIREMENT THAT INTERLOCAL AGREEMENTS BE APPROVED BY THE TTORNEY GENERAL; AMENDING SECTION 7-11-107, MCA; AND EPEALING SECTION 7-11-106, MCA."

E IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-11-107, MCA, is amended to read:

"7-11-107. Filing of interlocal agreement. ~~Within--10 ays-after-the-approval-by-the-attorney-general-and-prior-to ommencement---of---its--performance,--said~~ The interlocal ontract made pursuant to this part ~~shall~~ must be filed ith:

(1) the county clerk and recorder of the county or ounties where ~~said~~ the political agencies are situated; and

(2) the secretary of state."

NEW SECTION. **Section 2.** Repealer. Section 7-11-106, CA, is repealed.

-End-

INTRODUCED BILL
SB 100

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on January 24, 1991, at 1:05 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: On January 30, 1991, the Senate will go to session at 1:00 p.m. instead of 3:00 p.m., so this committee will now meet on Tuesdays and Thursdays at 3:00 p.m. starting with the January 31st meeting.

HEARING ON SB-100

Presentation and Opening Statement by Sponsor: Senator Bob Hockett, District 7, stated that he was sponsoring this bill at the request of the County Attorneys' Association. This bill makes a basic change in the law of filing interlocal agreements will not have to be sent to the Attorney General for review prior to the commencement of the agreement.

Proponents' Testimony: John Connor, Attorney General's Office, representing Montana County Attorneys' Association (MCAA).

Senator Hockett stated that this bill was requested by the MCAA, and like another earlier bill heard in this committee, this bill will expedite the process and reduce paperwork at the local and state level both. Title 7, chapter 11, part 1 deals with the creation of interlocal contracts between government entities on the local level. These are just contracts that provide methods for government entities to exchange information or enter into an agreement to perform some function. They are common, and they are most frequently done between cities and counties, but sometimes done between school districts. The statutes require that before the agreement goes into affect, it be reviewed and approved and signed off by the Attorney General. Then it has to be filed with Clerk and Recorder and the Secretary of State. The MCAA feels this approval by the Attorney General is unnecessary, and further involves state government in a process that should be handled on a local government. Both entities are at the local level, and the state should not be involved where they have no concerns. Approval by the Attorney General's office is done by having a paralegal go over the agreement to check the provisions for statutory compliance, then the Attorney General signs them and sends it back. The statute requires that this process be accomplished in 30 days or the agreement is deemed approved. After the agreement is sent back, the entities have 10 days to file with the Clerk and Recorder and the Secretary of State before the agreement can go into affect. So the process is about a 40 delay in the initiation of the agreement. The Attorney General annually review 40-45 agreements. About 10% are returned with suggestions for changes in the agreement. The real concern that this bill tries to address are the agreements being made all the time that are not be sent through to the Attorney General, and they are acting according to the terms of the agreement. The MCAA's fears that these agreements are potentially voidable and any activities carried out in them could be voided, too.

Gordon Morris, Executive Director, Montana Association of Counties, (MACo), would like to go on record supporting this bill. The county attorneys work on all interlocal agreements and they do get reviewed and signed off on. The agreements that could be voided are the issue if this bill is not moved. MACo feels that 50% of the existing agreements have not been subjected to this review. This is just an unnecessary step, and we ask the committee to Do Pass on this bill.

Alec Hanson, Montana League of Cities and Towns,(MLCT), we support this bill as cited by the previous proponents.

Opponents' Testimony: none

Questions From Committee Members:
Senator Thayer asked John Connor what is his roll? Mr. Connor works for the Attorney General's Office as the Bureau Chief of the County Prosecutors Service Bureau, but his position is created by statute. He is the training coordinator for the Montana County Attorneys, and he is obligated by statute to provide training and trial assistance to county attorneys throughout the state. In that process, any legislative proposals they are concerned that deal with the function of their office and criminal matters. The MCAA has a bill in for salary increase, but we do not deal with anything involving money because we are funded by the public. We are located by statute in the Attorney General's office, but we service the county attorneys.

Senator Thayer asked if the Attorney General was in favor of this bill. Mr. Connor said that both Attorney General, Marc Racicot and his assistant, Beth Baker, and they have no problem with this at all. There are other things that can be done by the people who review these agreements.

Senator Kennedy asked why the 10% are sent back? Mr. Connor cited statute 7-11-105, it details what needs to be contained in an interlocal agreement: duration, precise organization, purpose of agreement, matter of financing, method of accomplishing the termination, disposition of property. A paralegal checks the agreement to see if all these statutory provisions are present, if not, the agreement is sent back with suggestions. Senator Kennedy asked if these shouldn't have been caught by the county attorney? Mr. Connor said they should have been.

Senator Bengtson asked if county attorneys would probably catch these errors without this review? Mr. Connor felt they would.

Senator Beck asked if the counties would still be able to have the Attorney General review a technical agreement? Mr. Connor said it is possible to amend this to be a voluntary procedure, and then the Attorney General would probably continue reviewing agreements.

Closing by Sponsor: Senator Hockett had no further comment.

HEARING ON SB-102

Presentation and Opening Statement by Sponsor: Senator Nathe, District 10, sponsored this bill based on the concerns of

Senator Beck asked Mr. Morris if most districts in the rural areas fire districts instead of rural fire service areas? Mr. Morris said that we have a lot of rural fire protection areas in the eastern part of the state. They are not as organized to the same extent as they would be on the western side. Western Montana seems to prefer organization under Fire Districts. Senator Beck asked if all counties were currently covered under MACo's program? Mr. Morris said that 52 of the 56 counties are covered. Butte-Silver Bow, Deer Lodge, Anaconda, Liberty, and Beaverhead.

Closing by Sponsor: Senator Nathe closed by saying he supported the amendments by MACo and Lyle Naegle for this bill. He felt that the discussion had been very informative and he asked the committee to Do Pass SB-102 as amended. It is needed in Montana.

EXECUTIVE ACTION ON SB-100

Motion: Senator Eck moved to Do Pass SB-100.

Discussion: none

Recommendation and Vote: The motion carried unanimously. It was recorded as a roll call vote.

EXECUTIVE ACTION ON SB-10

Amendments, Discussion, and Votes: Connie Erickson explained the amendments. (Exhibit#2). A new section has been added that pertains to the responsibility of indebtedness.

Discussion: Senator Bengtson stated if the municipality decided not provide either of the option provided on Page 2, Section 2, Part a & b, then the newly annexed property have double taxes? It certainly be a dis-incentive to annexation.

Senator Beck asked if property owners had the choice as to whether they would be annexed. They to need to vote on it. Senator Beck asked C. Erickson if the city decides to annex a portion of the county or outside the city limits, do they have the arbitrary choice to do that? C. Erickson said it depends on the land. If it is contiguous or wholly surrounded. If its wholly surrounded, the city can simply pass a resolution and

SENATE STANDING COMMITTEE REPORT

January 24, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 100 (first reading copy -- white), respectfully report that Senate Bill No. 100 do pass.

Signed: Esther G. Bengtson
Esther G. Bengtson, Chairman

1-24-71
Asst. Coord.

1-24-71 8:20
Sec. of Senate

161633SC.Sji

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 24th day of January, 1991.

Name: John Connor

Address: Atty. General's Office
215 North Sanders

Telephone Number: 444-2026

Representing whom?

MT County Attys Assn

Appearing on which proposal?

SB 100

Do you: Support? X Amend?_____ Oppose?_____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Mike Stephen, Montana Clerk and Recorders Association, stated records need to be retrievable because they are the only records available.

Linda Stoll-Anderson, Lewis and Clark County Commissioner, supported HB 813.

Opponents' Testimony: None

Questions From Committee Members:

REP. CROMLEY stated that in Yellowstone County all records are on microfilm, and asked **Mike Stephen** if it was the same in other counties. **Mr. Stephen** replied that many counties maintain records by hand and some are computerized. It depends on the level that each courthouse has. Smaller counties maintain records by hand. **REP. CROMLEY** asked where the other five dollars goes. **Mr. Stephen** said it goes into the County General Fund. It may or may not be spent for the preservation of records.

REP. BROOKE asked **Linda Stoll-Anderson** if putting records on microfilm would create another FTE in many counties. **Ms. Stoll-Anderson** replied no. A committee was formed to review the problem of backlog in the offices of the Clerk and Recorders and Clerk of the District Court. The county be look at a contract with a private vendor to get rid of the backlog.

REP. SIMPKINS asked **Ms. Stoll-Anderson** what Lewis and Clark County used the five dollars in the General Fund for. **Ms. Stoll-Anderson** said it is shown in the fund balance sheet as paying for the services at the Clerk and Recorders Office. It shows up as revenues to the General Fund and is not earmarked for specific uses. **REP. SIMPKINS** asked why the records aren't mandated to be preserved. **Ms. Stoll-Anderson** stated most counties do not have the available funds. It has been a lower priority than funding other General Fund activities. HB 813 gives a logical source of funding for preservation.

Closing by Sponsor:

REP. O'KEEFE stated preservation should be mandated and HB 813 does that. It gives the counties the responsibility to preserve records and the funds to do it. The funds come from a user fee. People who use the records will pay to have them preserved.

HEARING ON SB 100

Presentation and Opening Statement by Sponsor:

SEN. HOCKETT, Senate District 7, Havre, stated SB 100 will delete the requirements of interlocal agreements to be approved by the Attorney General and makes contract filing at the County Clerk and Recorder's office mandatory.

Proponents' Testimony:

John Connor, Montana County Attorneys Association, said SB 100 eliminates unnecessary paper work. The law requires that interlocal agreements be reviewed by the Attorney General and approved; then sent back to the originating entities to be filed with the Clerk and Recorder and Secretary of State. This produces unnecessary delays in implementing the agreements. Most of the agreements are between cities and counties, and are examined by City and County Attorneys before they are put into effect. SB 100 removes the requirement that the state get involved in reviewing local government matters.

Mike McGrath, Lewis and Clark County Attorney, stated SB 100 is an attorney's bill. There isn't any need for the Attorney General to approve interlocal agreements. Local governments have there own council and sending the agreements to the AG for approval creates a bottleneck.

James Lofftus, Montana Fire Districts Association, and **Linda Stoll-Anderson, Montana Association of Counties,** went on record in support of SB 100.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. HOCKETT stated SB 100 will not cost the state any money. It may save the state money by allowing it to do other things.

HEARING ON SB 98

Presentation and Opening Statement by Sponsor:

SEN. JERGESON, Senate District 8, Chinook, said under current law, when there is an audit performed on a local government, the City or County Attorney must send a report to the DOC stating what they will do about any exception to the audits. SB 98 would require that the report from the County or City Attorney would only be sent to the DOC when the DOC feels it is an important enough exception to request that a report be sent. It relieves the City and County Attorneys of paperwork.

Proponents' Testimony:

John Connor, Montana County Attorney's Association, stated SB 98 would eliminate paperwork between the county and state local government services division. The statutes require the state to conduct audits of counties, incorporated cities and towns, school, irrigation, conservation, fire and cemetery districts. These audits are prepared and reviewed by the local government entity in conjunction with the auditors. If there are violations

requires the DOH to report ongoing construction to the Governor. The Governor's office doesn't want the report and the DOH doesn't want to prepare it.

Opponents' Testimony: None

Questions From Committee Members:

REP. McCAFFREE stated that on Page 4, Line 13 it shows a limit of $4,000, and asked **James Beck** if it is consistent with other county bidding procedures. **Mr. Beck** stated that they are not dealing with county bidding procedures. They are dealing with Subsection 3 and the requirement that cities and counties provide reports.

Closing by Sponsor:

SEN. BRUSKI urged the committee's support.

EXECUTIVE ACTION ON SB 92

Motion/Vote: **REP. NELSON MOVED SB 92 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 25

Motion/Vote: **REP. WALLIN MOVED SB 25 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 166

Motion/Vote: **REP. GOULD MOVED SB 166 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 98

Motion/Vote: **REP. BROOKE MOVED SB 98 BE CONCURRED IN.** Motion carried 17 to 1 with **REP. WALLIN** voting no.

EXECUTIVE ACTION ON SB 100

Motion/Vote: **REP. GOULD MOVED SB 100 BE CONCURRED IN AND PLACED ON CONSENT CALENDAR.** Motion carried unanimously.

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL **DATE** 3-5-91

NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett			X
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown	X		
Rep. Brent Cromley	X		
Rep. Tim Dowell			X
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice			X
Rep. Sheila Rice	X		[redacted]
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

CS05LOCGOV.MAN

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-24-91 Bill No. SB-100 Time 2:08 P.M.

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond	X	
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion:

9:23
3-6-91
TDB

HOUSE STANDING COMMITTEE REPORT

March 5, 1991

Mr. Speaker: We, the committee on Local Government report that Senate Bill 100 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: Diana Wyatt
Diana Wyatt, Chairman

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